

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

John Wilson,

Plaintiff,

-against-

Federal Bureau of Investigation,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 09/26/2022

1:20-cv-10324 (LAK) (SDA)

ORDER

STEWART D. AARON, United States Magistrate Judge:

WHEREAS, Defendant submitted in opposition to Plaintiff's pending motion for attorneys' fees and costs an Exhibit A depicting "side-by-side comparisons of five pages of documents that the FBI produced on April 2, 2021, after this litigation was filed, with versions of the documents that had been produced to Plaintiff on September 25, 2014" (Schwartz Decl., ECF No. 68, ¶ 2; Ex. A, ECF No. 68-1); and

WHEREAS, in Plaintiff's reply memorandum, he states that an "additional version" of a document not included in Defendant's Exhibit A that was produced after this action was filed "lacks a redaction present" in the version produced prior to this action being filed, "allowing one to read a handwritten note that says, 'PD Division since 1990'" (see Pl.'s Reply, ECF No. 69, at 5 (citing Adams Decl., Ex. J, ECF No. 40-10, at PDF p. 11)); and

WHEREAS, the discussion in Plaintiff's reply memorandum of the informational content of other documents to show that "the documents produced in response to this litigation were not 'duplicates' of earlier [produced] documents" (Pl.'s Reply at 4-5) appear to the Court to refer to information that Plaintiff possessed prior to this action being commenced (see Schwartz 8/25/22 Decl. Ex. A, at PDF p. 1 (names of FBI agents contained in February 2006 letter sent to

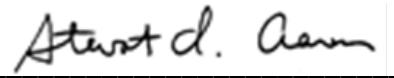
Plaintiff); Schwartz 8/25/22 Decl. Ex. A, at PDF p. 2 (document on left side) (handwritten notes produced to Plaintiff in September 2014 indicating that no records exist for first and third subjects of a complaint (noted by abbreviation “NR”), and second subject noted to be “only one w/ record”).

NOW, THEREFORE, it is hereby ORDERED, as follows:

1. No later than October 6, 2022, Defendant shall confirm in a letter filed to the ECF docket that the handwritten note “PD Division since 1990” was not produced to Plaintiff prior to this lawsuit being filed and, if confirmed, Defendant shall state its basis for previously withholding such information.
2. No later than October 6, 2022, Plaintiff shall file a letter to the ECF docket stating any information produced by Defendant after this lawsuit was filed that Plaintiff did not already possess prior to the filing of this lawsuit other than the handwritten note referred to in paragraph 1 above.
3. The Court shall hold oral argument by telephone on Plaintiff’s pending motion for attorneys’ fees and costs by telephone on October 14, 2022, at 11 a.m. At the scheduled time, each participant shall separately call (888) 278-0296 (or (214) 765-0479) and enter access code 6489745.

SO ORDERED.

Dated: New York, New York
September 26, 2022



STEWART D. AARON
United States Magistrate Judge